

(b) *Allowance by port director.* If the port director is satisfied after any necessary investigation that the merchandise contains moisture or impurities as described in paragraph (a) of this section, he shall make allowance for the amount thereof in the liquidation of the entry.

[T.D. 90–78, 55 FR 40167, Oct. 2, 1990]

**§ 158.14 Perishable merchandise condemned.**

(a) *Application by importer.* When fruit or other perishable merchandise has been condemned by health officers or other legally constituted authorities within 10 days after landing, an importer who desires allowance in duties under section 506(2), Tariff Act of 1930, as amended (19 U.S.C. 1506(2)), shall within 5 days after such condemnation file with the port director written notice of the condemnation. The date of landing in the case of merchandise forwarded under an entry for immediate transportation is the date of arrival at the port of destination.

(b) *Allowance in duties.* If the port director is satisfied after any necessary investigation that the claim is valid, allowance in duties shall be made in the liquidation of the entry. Such allowance shall be limited to perishable goods condemned by the health officers or authorities in the original package, unless segregation of the merchandise was under constant Customs supervision at the importer's expense.

(Sec. 506(2), 46 Stat. 732, as amended; 19 U.S.C. 1506(2))

**Subpart C—Casualty, Loss, or Theft While in Customs Custody**

**§ 158.21 Allowance in duties for casualty, loss, or theft while in Customs custody.**

Section 563(a), Tariff Act of 1930, as amended (19 U.S.C. 1563(a)), provides for allowance in duties upon satisfactory proof of the loss or theft of any merchandise while in the public stores, or of the actual injury or destruction, in whole or in part, of any merchandise by accidental fire or other casualty, while in bonded warehouse, or in the public stores, or while in transpor-

tation under bond, or while in Customs custody although not in bond, or while within the limits of any port of entry and before having been landed under Customs supervision. Such allowance is subject to the conditions set forth in this subpart.

**§ 158.21a Time period.**

An abatement or refund of duties shall be made in the case of injury to, or destruction of, merchandise in a bonded warehouse as a result of accidental fire or other casualty only if the fire or casualty occurs within 3 years from the date of importation.

[T.D. 79–221, 44 FR 46829, Aug. 9, 1979]

**§ 158.22 Not applicable when allowances made under other provisions.**

The procedures in this subpart do not apply in cases where allowances in duties are made under subpart A or subpart B of this part, or § 18.6 of this chapter.

**§ 158.23 Filing of application and evidence by importer.**

Within 30 days from the date of his discovery of the loss, theft, injury, or destruction, the importer shall file an application in duplicate on Customs Form 4315, and within 90 days from the date of discovery shall file any evidence required by § 158.26 or § 158.27.

**§ 158.24 Place of filing.**

The application and evidence shall be filed with the director of the port where the loss, theft, injury, or destruction occurred. In the case of total loss of merchandise by fire or other casualty while in transportation under bond, the application and evidence shall be filed with the director of the port at which the transportation entry was made. In the case of partial destruction of or injury to such merchandise, the application and evidence shall be filed with the director of the port of destination, except that if the merchandise is returned to the port at which the transportation entry was made, the application shall be filed at that port.